



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 01/05/2009 (Per: PJK)



Appendix A ... Pt. 06 of 06

The 2007 drafting file for LRB-3960

has been transferred to the drafting file for

2009 LRB-1308

This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

1 DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND
2 IT.

3 IT IS SUGGESTED THAT YOU KEEP THE ORIGINAL OF THIS
4 DOCUMENT ON FILE WITH YOUR PHYSICIAN."

5 **SECTION 73.** 155.40 (2) of the statutes is amended to read:

6 155.40 (2) If the health care agent is the principal's spouse or state-registered
7 domestic partner and, subsequent to the execution of a power of attorney for health
8 care instrument, the marriage is annulled or divorce from the spouse is obtained or
9 the state-registered domestic partnership under s. 770.07 is terminated, the power
10 of attorney for health care is revoked and the power of attorney for health care
11 instrument is invalid.

12 **SECTION 74.** 157.05 of the statutes is amended to read:

13 **157.05 Autopsy.** Consent for a licensed physician to conduct an autopsy on
14 the body of a deceased person shall be deemed sufficient when given by whichever
15 one of the following assumes custody of the body for purposes of burial: Father,
16 mother, husband, wife, child, guardian, next of kin, state-registered domestic
17 partner under s. 770.05, or in the absence of any of the foregoing, a friend, or a person
18 charged by law with the responsibility for burial. If 2 or more such persons assume
19 custody of the body, the consent of one of them shall be deemed sufficient.

20 **SECTION 75.** 157.06 (9) (a) 2. of the statutes, as affected by 2007 Wisconsin Act
21 106, is amended to read:

22 157.06 (9) (a) 2. The spouse or state-registered domestic partner under s.
23 770.05 of the individual.

24 **SECTION 76.** 243.10 (1) (form) of the statutes is amended to read:

25 243.10 (1) (form)

WISCONSIN BASIC POWER OF ATTORNEY
FOR FINANCES AND PROPERTY

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. BY SIGNING THIS DOCUMENT, YOU ARE NOT GIVING UP ANY POWERS OR RIGHTS TO CONTROL YOUR FINANCES AND PROPERTY YOURSELF. IN ADDITION TO YOUR OWN POWERS AND RIGHTS, YOU ARE GIVING ANOTHER PERSON, YOUR AGENT, BROAD POWERS TO HANDLE YOUR FINANCES AND PROPERTY. THIS BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY MAY GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR FINANCES AND PROPERTY, WHICH MAY INCLUDE POWERS TO ENCUMBER, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THE POWERS WILL EXIST AFTER YOU BECOME DISABLED, OR INCAPACITATED, IF YOU CHOOSE THAT PROVISION. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF YOU OWN COMPLEX OR SPECIAL ASSETS SUCH AS A BUSINESS, OR IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN THIS FORM TO YOU BEFORE YOU SIGN IT.

IF YOU WISH TO CHANGE YOUR BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY, YOU MUST COMPLETE A NEW DOCUMENT AND REVOKE THIS ONE. YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN

1 YOUR PRESENCE OR BY SIGNING A WRITTEN AND DATED STATEMENT
2 EXPRESSING YOUR INTENT TO REVOKE THIS DOCUMENT. IF YOU
3 REVOKE THIS DOCUMENT, YOU SHOULD NOTIFY YOUR AGENT AND ANY
4 OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY OF THE FORM. YOU
5 ALSO SHOULD NOTIFY ALL PARTIES HAVING CUSTODY OF YOUR ASSETS.
6 THESE PARTIES HAVE NO RESPONSIBILITY TO YOU UNLESS YOU
7 ACTUALLY NOTIFY THEM OF THE REVOCATION. IF YOUR AGENT IS YOUR
8 SPOUSE OR STATE-REGISTERED DOMESTIC PARTNER AND YOUR
9 MARRIAGE IS ANNULLED, OR YOU ARE DIVORCED, OR THE
10 STATE-REGISTERED DOMESTIC PARTNERSHIP IS TERMINATED AFTER
11 SIGNING THIS DOCUMENT, THIS DOCUMENT IS INVALID.

12 SINCE SOME 3RD PARTIES OR SOME TRANSACTIONS MAY NOT
13 PERMIT USE OF THIS DOCUMENT, IT IS ADVISABLE TO CHECK IN
14 ADVANCE, IF POSSIBLE, FOR ANY SPECIAL REQUIREMENTS THAT MAY BE
15 IMPOSED.

16 YOU SHOULD SIGN THIS FORM ONLY IF THE AGENT YOU NAME IS
17 RELIABLE, TRUSTWORTHY AND COMPETENT TO MANAGE YOUR AFFAIRS.

18 I (insert your name and address) appoint (insert the name and address
19 of the person appointed) as my agent to act for me in any lawful way with respect to
20 the powers initialed below. If the person appointed is unable or unwilling to act as
21 my agent, I appoint (insert name and address of alternate person appointed) to
22 act for me in any lawful way with respect to the powers initialed below.

23 TO GRANT ONE OR MORE OF THE FOLLOWING POWERS, INITIAL THE
24 LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

1 TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT.
2 YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

3 **HANDLING MY MONEY AND PROPERTY**

4 *Initials*

5 _____ 1. *PAYMENTS OF BILLS:* My agent may make payments that are
6 necessary or appropriate in connection with the administration of my affairs.

7 _____ 2. *BANKING:* My agent may conduct business with financial
8 institutions, including endorsing all checks and drafts made payable to my order and
9 collecting the proceeds; signing in my name checks or orders on all accounts in my
10 name or for my benefit; withdrawing funds from accounts in my name; opening
11 accounts in my name; and entering into and removing articles from my safe deposit
12 box.

13 _____ 3. *INSURANCE:* My agent may obtain insurance of all types, as
14 considered necessary or appropriate, settle and adjust insurance claims and borrow
15 from insurers and 3rd parties using insurance policies as collateral.

16 _____ 4. *ACCOUNTS:* My agent may ask for, collect and receive money,
17 dividends, interest, legacies and property due or that may become due and owing to
18 me and give receipt for those payments.

19 _____ 5. *REAL ESTATE:* My agent may manage real property; sell, convey and
20 mortgage realty for prices and on terms as considered advisable; foreclose mortgages
21 and take title to property in my name; and execute deeds, mortgages, releases,
22 satisfactions and other instruments relating to realty.

23 _____ 6. *BORROWING:* My agent may borrow money and encumber my assets
24 for loans as considered necessary.

_____ 7. *SECURITIES*: My agent may buy, sell, pledge and exchange securities of all kinds in my name; sign and deliver in my name transfers and assignments of securities; and consent in my name to reorganizations, mergers or exchange of securities for new securities.

_____ 8. *INCOME TAXES*: My agent may make and sign tax returns; represent me in all income tax matters before any federal, state, or local tax collecting agency; and receive confidential information and perform any acts that I may perform, including receiving refund checks and the signing of returns.

_____ 9. *TRUSTS*: My agent may transfer at any time any of my property to a living trust that has been established by me before the execution of this document.

PROFESSIONAL AND TECHNICAL ASSISTANCE

Initials

_____ 10. *LEGAL ACTIONS*: My agent may retain attorneys on my behalf; appear for me in all actions and proceedings to which I may be a party; commence actions and proceedings in my name; and sign in my name all documents or pleadings of every description.

_____ 11. *PROFESSIONAL ASSISTANCE*: My agent may hire accountants, attorneys, clerks, workers and others for the management, preservation and protection of my property and estate.

GENERAL AUTHORITY

Initials

_____ 12. *GENERAL*: My agent may do any act or thing that I could do in my own proper person if personally present, including managing or selling tangible assets, disclaiming a probate or nonprobate inheritance and providing support for a minor child or dependent adult. The specifically enumerated powers of the basic

1 power of attorney for finances and property are not a limitation of this intended
2 broad general power except that my agent may not take any action prohibited by law
3 and my agent under this document may not:

4 a. Make medical or health care decisions for me.

5 b. Make, modify or revoke a will for me.

6 c. Other than a burial trust agreement under section 445.125, Wisconsin
7 Statutes, enter into a trust agreement on my behalf or amend or revoke a trust
8 agreement, entered into by me.

9 d. Change any beneficiary designation of any life insurance policy, qualified
10 retirement plan, individual retirement account or payable on death account or the
11 like whether directly or by canceling and replacing the policy or rollover to another
12 plan or account.

13 e. Forgive debts owed to me or disclaim or waive benefits payable to me, except
14 a probate or nonprobate inheritance.

15 f. Appoint a substitute or successor agent for me.

16 g. Make gifts.

17 **COMPENSATION TO AGENT FROM**

18 **PRINCIPAL'S FUNDS**

19 *Initials*

20 _____ 13. *COMPENSATION*. My agent may receive compensation only in an
21 amount not greater than that usual for the services to be performed if expressly
22 authorized in the special instructions portion of this document.

23 **ACCOUNTING**

24 *Initials*

_____ 14. **ACCOUNTING.** My agent shall render an accounting (monthly) (quarterly) (annually) (CIRCLE ONE) to me or to (insert name and address) during my lifetime and a final accounting to the personal representative of my estate, if any is appointed, after my death.

NOMINATION OF GUARDIAN

Initials

_____ 15. *GUARDIAN*: If necessary, I nominate (name) of (address) as guardian of my person and I nominate (name) of (address) as guardian of my estate.

SPECIAL INSTRUCTIONS

Initials

16. *SPECIAL INSTRUCTIONS:*

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS
REGARDING THE POWERS GRANTED TO YOUR AGENT.

[illegible]

TO ESTABLISH WHEN, AND FOR HOW LONG, THE BASIC POWER OF ATTORNEY FOR FINANCES AND PROPERTY IS IN EFFECT, YOU MUST

1 INITIAL ONLY ONE OF THE FOLLOWING 3 OPTIONS. IF YOU DO NOT
2 INITIAL ONE, OR IF YOU INITIAL MORE THAN ONE, THIS BASIC POWER OF
3 ATTORNEY FOR FINANCES AND PROPERTY WILL NOT TAKE EFFECT.

4 *Initials*

5 _____ This basic power of attorney for finances and property becomes effective
6 when I sign it and will continue in effect as a durable power of attorney under section
7 243.07, Wisconsin Statutes, if I become disabled or incapacitated.

8 _____ This basic power of attorney for finances and property becomes effective
9 only when both of the following apply:

- 10 a. I have signed it; and
11 b. I become disabled or incapacitated.

12 _____ This basic power of attorney for finances and property becomes effective
13 when I sign it BUT WILL CEASE TO BE EFFECTIVE IF I BECOME DISABLED
14 OR INCAPACITATED.

15 I agree that any 3rd party who receives a copy of this document may act under
16 it. Revocation of this basic power of attorney is not effective as to a 3rd party until
17 the 3rd party learns of the revocation. I agree to reimburse the 3rd party for any loss
18 resulting from claims that arise against the 3rd party because of reliance on this
19 basic power of attorney.

20 Signed this day of, (year)

21

22 (Your Signature)

23
24

25 (Your Social Security Number)

1 By signing as a witness, I am acknowledging the signature of the principal who
2 signed in my presence and the presence of the other witness, and the fact that he or
3 she has stated that this power of attorney reflects his or her wishes and is being
4 executed voluntarily. I believe him or her to be of sound mind and capable of creating
5 this power of attorney. I am not related to him or her by blood, marriage or adoption,
6 and, to the best of my knowledge, I am not entitled to any portion of his or her estate
7 under his or her will.

Witness

Dated:

Signature:

Print Name:

Address:

State of

County of

Witness

Dated:

Signature:

Print Name:

Address:

15 This document was acknowledged before me on (date) by (name of
16 principal).

....

(Signature of Notarial Officer)

(Seal, if any)

(Title)

[My commission is permanent or expires:]

23 BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT
24 ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES AND
25 LIABILITIES OF AN AGENT.

1 (Name of Agent)

2 (Name of Agent)

3

4

5 (Signature of Agent)

6 This document was drafted by (signature of person preparing the
7 document).

8 **SECTION 77.** 243.10 (7) (b) of the statutes is amended to read:

9 243.10 (7) (b) A principal may revoke a Wisconsin basic power of attorney for
10 finances and property and invalidate it at any time by destroying it, by directing
11 another person to destroy it in the principal's presence or by signing a written and
12 dated statement expressing the principal's intent to revoke. If the agent under the
13 Wisconsin basic power of attorney for finances and property is the principal's spouse
14 and the marriage is annulled, or the agent and principal are divorced, or the agent
15 is the principal's state-registered domestic partner under s. 770.05 and the domestic
16 partnership is terminated under s. 770.10, after signing the document, the
17 Wisconsin basic power of attorney for finances and property is invalid.

18 **SECTION 78.** 252.16 (1) (ar) of the statutes is amended to read:

19 252.16 (1) (ar) "Dependent" means a spouse or state-registered domestic
20 partner under s. 770.05, an unmarried child under the age of 19 years, an unmarried
21 child who is a full-time student under the age of 21 years and who is financially
22 dependent upon the parent, or an unmarried child of any age who is medically
23 certified as disabled and who is dependent upon the parent.

24 **SECTION 79.** 252.17 (3) (d) of the statutes is amended to read:

1 252.17 (3) (d) Is covered under a group health plan through his or her
2 employment and pays part or all of the premium for that coverage, including any
3 premium for coverage of the individual's spouse or state-registered domestic partner
4 under s. 770.05 and dependents.

5 **SECTION 80.** 252.17 (4) (a) of the statutes is amended to read:

6 252.17 (4) (a) Except as provided in pars. (b), (c), and (d), if an individual
7 satisfies sub. (3), the department shall pay the amount of each premium payment for
8 coverage under the group health plan under sub. (3) (d) that is due from the
9 individual on or after the date on which the individual becomes eligible for a subsidy
10 under sub. (3). The department may not refuse to pay the full amount of the
11 individual's contribution to each premium payment because the coverage that is
12 provided to the individual who satisfies sub. (3) includes coverage of the individual's
13 spouse or state-registered domestic partner under s. 770.05 and dependents. Except
14 as provided in par. (b), the department shall terminate the payments under this
15 section when the individual's unpaid medical leave ends, when the individual no
16 longer satisfies sub. (3) or upon the expiration of 29 months after the unpaid medical
17 leave began, whichever occurs first.

18 **SECTION 81.** 252.17 (4) (d) of the statutes is amended to read:

19 252.17 (4) (d) For an individual who satisfies sub. (3) and who has a family
20 income, as defined by rule under sub. (6) (a), that exceeds 200% but does not exceed
21 300% of the federal poverty line, as defined under 42 USC 9902 (2), for a family the
22 size of the individual's family, the department shall pay a portion of the amount of
23 each premium payment for the individual's coverage under the group health plan
24 under sub. (3) (d). The portion that the department pays shall be determined
25 according to a schedule established by the department by rule under sub. (6) (c). The

1 department shall pay the portion of the premium determined according to the
2 schedule regardless of whether the individual's coverage under the group health
3 plan under sub. (3) (d) includes coverage of the individual's spouse or
4 state-registered domestic partner under s. 770.05 and dependents.

5 **SECTION 82.** 301.046 (4) (a) 1. of the statutes is amended to read:

6 301.046 (4) (a) 1. "Member of the family" means spouse, state-registered
7 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

8 **SECTION 83.** 301.048 (4m) (a) 1. of the statutes is amended to read:

9 301.048 (4m) (a) 1. "Member of the family" means spouse, state-registered
10 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

11 **SECTION 84.** 301.38 (1) (a) of the statutes is amended to read:

12 301.38 (1) (a) "Member of the family" means spouse, state-registered domestic
13 partner under s. 770.05, child, sibling, parent or legal guardian.

14 **SECTION 85.** 301.46 (3) (a) 1. of the statutes is amended to read:

15 301.46 (3) (a) 1. "Member of the family" means spouse, state-registered
16 domestic partner under s. 770.05, child, parent, sibling or legal guardian.

17 **SECTION 86.** 302.105 (1) (a) of the statutes is amended to read:

18 302.105 (1) (a) "Member of the family" means spouse, state-registered
19 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

20 **SECTION 87.** 304.06 (1) (a) 1. of the statutes is amended to read:

21 304.06 (1) (a) 1. "Member of the family" means spouse, state-registered
22 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

23 **SECTION 88.** 304.09 (1) (a) of the statutes is amended to read:

24 304.09 (1) (a) "Member of the family" means spouse, state-registered domestic
25 partner under s. 770.05, child, sibling, parent or legal guardian.

1 **SECTION 89.** 321.62 (11) (a) of the statutes, as affected by 2007 Wisconsin Act
2 200, is amended to read:

3 321.62 (11) (a) No eviction may be made during the period of state active duty
4 in respect to any premises for which the agreed rent does not exceed the amount
5 specified in 50 USC App. 531. occupied chiefly for dwelling purposes by the spouse,
6 children, state-registered domestic partner under s. 770.05, or other dependents of
7 a service member who is in state active duty, except upon order of a court in an action
8 affecting the right of possession.

9 **SECTION 90.** 342.14 (3m) of the statutes, as affected by 2007 Wisconsin Act 33,
10 is amended to read:

11 **342.14 (3m)** Upon filing an application under sub. (1) or (3), a supplemental
12 title fee of \$7.50 by the owner of the vehicle, except that this fee shall be waived with
13 respect to an application under sub. (3) for transfer of a decedent's interest in a
14 vehicle to his or her surviving spouse or state-registered domestic partner under s.
15 770.05. The fee specified under this subsection is in addition to any other fee
16 specified in this section. This subsection does not apply to an application for a
17 certificate of title for a neighborhood electric vehicle.

18 **SECTION 91.** 342.17 (4) (b) 1. (intro.) and c. and 4. of the statutes are amended
19 to read:

20 342.17 (4) (b) 1. (intro.) The department shall transfer the decedent's interest
21 in any vehicle to his or her surviving spouse or state-registered domestic partner
22 under s. 770.05 upon receipt of the title executed by the surviving spouse or domestic
23 partner and a statement by the spouse or domestic partner which shall state:

24 c. That the spouse or domestic partner is personally liable for the decedent's
25 debts and charges to the extent of the value of the vehicle, subject to s. 859.25.

4. The limit in subd. 3. does not apply if the surviving spouse or domestic partner is proceeding under s. 867.03 (1g) and the total value of the decedent's property subject to administration in the state, including the vehicles transferred under this paragraph, does not exceed \$50,000.

SECTION 92. 614.10 (2) (c) 3. of the statutes is amended to read:

614.10 (2) (c) 3. Notwithstanding s. 614.01 (1) (a) 2., on the application of an employee specified in subd. 2., provide insurance benefits to the employee's spouse or state-registered domestic partner under s. 770.05 or a child of the employee who receives financial services or support from the employee.

SECTION 93. 700.19 (2m) of the statutes is created to read:

700.19 (2m) DOMESTIC PARTNERS. If persons named as owners in a document of title, transferees in an instrument of transfer, or buyers in a bill of sale are described in the document, instrument, or bill of sale as state-registered domestic partners under s. 770.05, or are in fact state-registered domestic partners under s. 770.05, they are joint tenants, unless the intent to create a tenancy in common is expressed in the document, instrument, or bill of sale.

SECTION 94. Chapter 770 of the statutes is created to read:

CHAPTER 770

DOMESTIC PARTNERSHIP REGISTRY

770.01 Definitions. In this chapter:

(1) “Domestic partner” means a state-registered domestic partner.

(2) “Secretary” means the secretary of state.

770.05 Criteria for entering into a state-registered domestic partnership. Two individuals may enter into a state-registered domestic partnership if they satisfy all of the following criteria:

1 (1) Each individual is at least 18 years old and capable of consenting to the
2 domestic partnership.

3 (2) Neither individual is married to, or in a state-registered domestic
4 partnership with, another individual.

5 (3) The 2 individuals share a common residence. Two individuals may share
6 a common residence even if any of the following applies:

7 (a) Only one of the individuals has legal ownership of the residence.

8 (b) One or both of the individuals have one or more additional residences not
9 shared with the other individual.

10 (c) One of the individuals leaves the common residence with the intent to
11 return.

12 (4) The 2 individuals are not nearer of kin to each other than 2nd cousins,
13 whether of the whole or half blood or by adoption.

14 (5) Either of the following is true:

15 (a) Both individuals are members of the same sex.

16 (b) At least one of the individuals is 62 years of age or older.

17 **770.07 Procedure for entering into a state-registered domestic**
18 **partnership. (1) FILE DECLARATION.** Two individuals who meet the criteria under
19 s. 770.05 may enter into a state-registered domestic partnership by filing a
20 completed declaration of state-registered domestic partnership form with the
21 secretary and paying the filing fee established under s. 770.18 (3) (a). The
22 declaration must be signed by both individuals and notarized.

23 **(2) SECRETARY ISSUE CERTIFICATE.** Upon receiving a completed, signed, and
24 notarized declaration of state-registered domestic partnership and the filing fee
25 established under s. 770.18 (3) (a), the secretary shall register the declaration, as

1 provided under s. 770.18 (1), and issue to each individual named on the declaration
2 a certificate of state-registered domestic partnership.

3 **770.10 Terminating a state-registered domestic partnership. (1) FILE**

4 NOTICE OF TERMINATION; AFFIDAVIT. (a) A party to a state-registered domestic
5 partnership may terminate the state-registered domestic partnership by filing a
6 completed notice of termination of state-registered domestic partnership form with
7 the secretary and paying the filing fee established under s. 770.18 (3) (a). The notice
8 must be signed by one or both domestic partners and notarized.

9 (b) If the notice under par. (a) is signed by only one of the domestic partners,
10 that individual must also file with the secretary an affidavit stating either of the
11 following:

12 1. That the other domestic partner has been served in writing, in the manner
13 provided under s. 801.11, that a notice of termination of state-registered domestic
14 partnership is being filed with the secretary.

15 2. That the domestic partner seeking termination has been unable to locate the
16 other domestic partner after making reasonable efforts and that notice to the other
17 domestic partner has been made by publication as provided in sub. (2).

18 (2) PUBLISH NOTICE. If a domestic partner who is seeking to terminate the
19 state-registered domestic partnership is unable to find the other domestic partner
20 after making reasonable efforts, the domestic partner seeking termination may
21 provide notice by publication in a newspaper of general circulation in the county in
22 which the residence most recently shared by the domestic partners is located. The
23 notice need not be published more than one time.

24 (3) SECRETARY ISSUES CERTIFICATE. Upon receiving a completed, signed, and
25 notarized notice of termination of state-registered domestic partnership, the

1 affidavit under sub. (1) (b) if required, and the filing fee established under s. 770.18
2 (3) (a), the secretary shall register the notice of termination of state-registered
3 domestic partnership, as provided under s. 770.18 (1), and issue to each domestic
4 partner a certificate of termination of state-registered domestic partnership.

5 **(4) WHEN TERMINATION EFFECTIVE.** (a) Except as provided in par. (b), the
6 termination of a state-registered domestic partnership is effective 90 days after the
7 notice of termination of state-registered domestic partnership or notice of
8 termination of state-registered domestic partnership and affidavit are filed under
9 sub. (1).

10 (b) If a party to a state-registered domestic partnership enters into a marriage
11 that is recognized as valid in this state, the state-registered domestic partnership
12 is automatically terminated on the date of the marriage.

13 **770.15 Forms for declaration and notice of termination. (1)**
14 **PREPARATION.** The secretary shall prepare forms entitled "declaration of
15 state-registered domestic partnership" and "notice of termination of
16 state-registered domestic partnership" and any other forms that are necessary to
17 meet the requirements of this chapter.

18 **(2) DISTRIBUTION.** The secretary shall distribute the forms under this section
19 to each county clerk. The forms shall be available to the public at the office of the
20 secretary, at any county clerk's office, and on the Internet at a site maintained by the
21 secretary.

22 **770.18 State domestic partnership registry; fees. (1) REGISTRATION OF**
23 **DECLARATIONS AND NOTICES OF TERMINATION.** The state domestic partnership registry
24 is created in the office of the secretary. The secretary shall register and permanently

1 maintain in the state domestic partnership registry all of the following documents
2 or records of all of the following documents:

3 (a) Declarations of state-registered domestic partnership filed with the
4 secretary under s. 770.07 (1).

5 (b) Certificates of state-registered domestic partnership issued by the
6 secretary under s. 770.07 (2).

7 (c) Notices of termination of state-registered domestic partnership and
8 affidavits filed with the secretary under s. 770.10 (1).

9 (d) Certificates of termination of state-registered domestic partnership issued
10 by the secretary under s. 770.10 (3).

11 (2) COPIES TO STATE REGISTRAR. The secretary shall provide the state registrar
12 of vital statistics with copies of declarations of state-registered domestic partnership
13 filed with the secretary under s. 770.07 (1) and with copies of notices of termination
14 of state-registered domestic partnership and affidavits filed with the secretary
15 under s. 770.10 (1).

16 (3) SETTING FEES; RULES. (a) The secretary shall set, by rule, reasonable fees
17 for filing a declaration of state-registered domestic partnership and for filing a notice
18 of termination of state-registered domestic partnership. The fees shall be calculated
19 to cover the secretary's costs, but no fee may exceed \$50. Fees collected under ss.
20 770.07 and 770.10 shall be credited to the appropriation account under s. 20.575 (1)
21 (g).

22 (b) The secretary shall promulgate any other rules necessary for the
23 implementation and administration of the state domestic partnership registry.

24 **SECTION 95.** 851.08 of the statutes is created to read:

1 **851.08 Domestic partner.** “Domestic partner” means a state-registered
2 domestic partner under s. 770.05.

3 **SECTION 96.** 851.17 of the statutes is amended to read:

4 **851.17 Net estate.** “Net estate” means all property subject to administration
5 less the property selected by the surviving spouse or surviving domestic partner
6 under s. 861.33, the allowances made by the court under ss. 861.31, 861.35 and
7 861.41 except as those allowances are charged by the court against the intestate
8 share of the recipient, administration, funeral and burial expenses, the amount of
9 claims paid and federal and state estate taxes payable out of such property.

10 **SECTION 97.** 851.295 of the statutes is created to read:

11 **851.295 Surviving domestic partner.** (1) Subject to sub. (2), “surviving
12 domestic partner” means a person who was in a domestic partnership registered with
13 the secretary of state under s. 770.07 with the decedent, at the time of the decedent’s
14 death.

15 (2) “Surviving domestic partner” does not include any of the following:

16 (a) An individual who obtains or consents to a termination of domestic
17 partnership from the decedent if the secretary of state fails to issue a valid certificate
18 of termination of domestic partnership under s. 770.10 (3), unless the individual and
19 the decedent subsequently register as domestic partners under s. 770.07 with the
20 secretary of state or they subsequently hold themselves out as domestic partners.

21 (b) An individual whose domestic partnership with the decedent has not been
22 terminated by the secretary of state issuing a valid certificate of termination under
23 s. 770.10 (3) and who subsequently registers a domestic partnership with a 3rd
24 individual with the secretary of state under s. 770.07 or who participates in a
25 marriage ceremony with a 3rd individual.

1 (c) An individual who was party to a valid proceeding concluded by an order
2 purporting to terminate all property rights based on the domestic partnership.

3 **SECTION 98.** 852.01 (1) (a) (intro.), 1. and 2. (intro.) and b., (b), (c), (d) and (f)
4 (intro.) of the statutes are amended to read:

5 **852.01 (1) (a) (intro.)** To the spouse or surviving domestic partner:

6 1. If there are no surviving issue of the decedent, or if the surviving issue are
7 all issue of the surviving spouse or surviving domestic partner and the decedent, the
8 entire estate.

9 2. (intro.) If there are surviving issue one or more of whom are not issue of the
10 surviving spouse or surviving domestic partner, one-half of decedent's property
11 other than the following property:

12 b. The decedent's interest in property held equally and exclusively with the
13 surviving spouse or surviving domestic partner as tenants in common.

14 (b) To the issue, per stirpes, the share of the estate not passing to the spouse
15 or surviving domestic partner, under par. (a), or the entire estate if there is no
16 surviving spouse or surviving domestic partner.

17 (c) If there is no surviving spouse, surviving domestic partner, or issue, to the
18 parents.

19 (d) If there is no surviving spouse, surviving domestic partner, issue, or parent,
20 to the brothers and sisters and the issue of any deceased brother or sister per stirpes.

21 (f) (intro.) If there is no surviving spouse, surviving domestic partner, issue,
22 parent, or issue of a parent, to the grandparents and their issue as follows:

23 **SECTION 99.** 852.09 of the statutes is amended to read:

24 **852.09 Assignment of home to surviving spouse or surviving domestic**
25 **partner.** If the intestate estate includes an interest in a home, assignment of that

1 interest to the surviving spouse or surviving domestic partner is governed by s.
2 861.21.

3 **SECTION 100.** 853.11 (2m) and (3) of the statutes are amended to read:

4 **853.11 (2m) PREMARITAL OR PREDOMESTIC PARTNERSHIP WILL.** Entitlements of a
5 surviving spouse or surviving domestic partner under a decedent's will that was
6 executed before marriage to the surviving spouse or registration of the domestic
7 partnership under s. 770.07 to the surviving domestic partner are governed by s.
8 853.12.

9 **(3) TRANSFER TO FORMER SPOUSE OR FORMER DOMESTIC PARTNER.** A transfer under
10 a will to a former spouse or former domestic partner is governed by s. 854.15.

11 **SECTION 101.** 853.12 (title) of the statutes is amended to read:

12 **853.12 (title) Premarital will or predomestic partnership will.**

13 **SECTION 102.** 853.12 (1), (2) (intro.) and (a), (3) (a) and (b) and (4) (a) of the
14 statutes are amended to read:

15 **853.12 (1) ENTITLEMENT OF SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER.**
16 Subject to sub. (3), if the testator married the surviving spouse or registered a
17 domestic partnership under s. 770.07 with the surviving domestic partner after the
18 testator executed his or her will, the surviving spouse or surviving domestic partner
19 is entitled to a share of the probate estate.

20 **(2) VALUE OF SHARE.** (intro.) The value of the share under sub. (1) is the value
21 of the share that the surviving spouse or surviving domestic partner would have
22 received had the testator died with an intestate estate equal to the value of the
23 testator's net estate, but the value of the net estate shall first be reduced by the value
24 of all of the following:

1 (a) All devises to or for the benefit of the testator's children who were born
2 before the marriage to the surviving spouse or the domestic partnership with the
3 surviving domestic partner and who are not also the children of the surviving spouse
4 or surviving domestic partner.

5 (3) (a) It appears from the will or other evidence that the will was made in
6 contemplation of the testator's marriage to the surviving spouse or domestic
7 partnership with the surviving domestic partner.

8 (b) It appears from the will or other evidence that the will is intended to be
9 effective notwithstanding any subsequent marriage or domestic partnership, or
10 there is sufficient evidence that the testator considered revising the will after
11 marriage or domestic partnership but decided not to.

12 (4) (a) Amounts received by the surviving spouse under s. 861.02 and devises
13 made by will to the surviving spouse or surviving domestic partner are applied first.

14 **SECTION 103.** 859.25 (1) (g) of the statutes is amended to read:

15 859.25 (1) (g) Property assigned to the surviving spouse or surviving domestic
16 partner under s. 861.41.

17 **SECTION 104.** 861.21 (title) of the statutes is amended to read:

18 **861.21 (title) Assignment of home to surviving spouse or surviving**
19 **domestic partner.**

20 **SECTION 105.** 861.21 (1) (b) of the statutes, as affected by 2007 Wisconsin Act
21 11, is amended to read:

22 861.21 (1) (b) "Home" means any dwelling in which the decedent had an
23 interest and that at the time of the decedent's death the surviving spouse or surviving
24 domestic partner occupies or intends to occupy. If there are several such dwellings,
25 any one may be designated by the surviving spouse or surviving domestic partner.

1 "Home" includes a house, a mobile home, a manufactured home, a duplex or multiple
2 apartment building one unit of which is occupied by the surviving spouse or
3 surviving domestic partner and a building used in part for a dwelling and in part for
4 commercial or business purposes. "Home" includes all of the surrounding land,
5 unless the court sets off part of the land as severable from the remaining land under
6 sub. (5).

7 **SECTION 106.** 861.21 (2), (4) and (5) of the statutes are amended to read:

8 861.21 (2) DECEDENT'S PROPERTY INTEREST IN HOME. Subject to subs. (4) and (5),
9 if a married or domestic partnership decedent has a property interest in a home, the
10 decedent's entire interest in the home shall be assigned to the surviving spouse or
11 surviving domestic partner if the surviving spouse or surviving domestic partner
12 petitions the court requesting such a distribution and if a governing instrument does
13 not provide a specific transfer of the decedent's interest in the home to someone other
14 than the surviving spouse or surviving domestic partner. The surviving spouse or
15 surviving domestic partner shall file the petition within 6 months after the
16 decedent's death, unless the court extends the time for filing.

17 (4) PAYMENT BY SURVIVING SPOUSE OR SURVIVING DOMESTIC PARTNER. The court
18 shall assign the interest in the home under sub. (2) to the surviving spouse or
19 surviving domestic partner upon payment of the value of the decedent's interest in
20 the home that does not pass to the surviving spouse or surviving domestic partner
21 under intestacy or under a governing instrument. Payment shall be made to the
22 fiduciary holding title to the interest. The surviving spouse or surviving domestic
23 partner may use assets due him or her from the fiduciary to satisfy all or part of the
24 payment in kind. Unless the court extends the time, the surviving spouse or

1 surviving domestic partner shall have one year from the decedent's death to pay the
2 value of the assigned interest.

3 (5) SEVERANCE OF HOME FROM SURROUNDING LAND. On petition of the surviving
4 spouse or surviving domestic partner or of any interested person that part of the land
5 is not necessary for dwelling purposes and that it would be inappropriate to assign
6 all of the surrounding land as the home under sub. (2), the court may set off for the
7 home as much of the land as is necessary for a dwelling. In determining how much
8 land should be set off, the court shall take into account the use and marketability of
9 the parcels set off as the home and the remaining land.

10 SECTION 107. 861.31 (1m), (2) and (4) (intro.) and (b) of the statutes are
11 amended to read:

12 861.31 (1m) The court may, without notice or on such notice as the court
13 directs, order payment by the personal representative or special administrator of an
14 allowance as the court determines necessary or appropriate for the support of the
15 surviving spouse or surviving domestic partner and any minor children of the
16 decedent during the administration of the estate. The court shall consider the size
17 of the probate estate, other resources available for support, the existing standard of
18 living, and any other factors it considers relevant.

19 (2) The court may order that an allowance be made to the spouse or surviving
20 domestic partner for support of the spouse or surviving domestic partner and any
21 minor children of the decedent, or that separate allowances be made to the spouse
22 or surviving domestic partner and to the minor children of the decedent or their
23 guardian, if any, if the court finds separate allowances advisable. If there is no
24 surviving spouse or surviving domestic partner, the court may order that an
25 allowance be made to the minor children of the decedent or to their guardian, if any.

1 **(4)** (intro.) The court may order that the allowance be charged against income
2 or principal, either as an advance or otherwise, but the court may not order that an
3 allowance for support of minor children of the decedent be charged against the
4 income or principal interest of the surviving spouse or surviving domestic partner.

5 The court may order that the allowance for support of the surviving spouse or
6 surviving domestic partner, not including any allowance for support of minor
7 children of the decedent, be applied in satisfaction of any of the following:

8 (b) Any right of the surviving spouse or surviving domestic partner to elect
9 under s. 861.02.

10 **SECTION 108.** 861.33 (title) of the statutes is amended to read:

11 **861.33 (title) Selection of personalty by surviving spouse or surviving**
12 **domestic partner.**

13 **SECTION 109.** 861.33 (1) (a) (intro.) and 1. and (b) of the statutes are amended
14 to read:

15 861.33 **(1)** (a) (intro.) Subject to this section, in addition to all allowances and
16 distributions, the surviving spouse or surviving domestic partner may file with the
17 court a written selection of the following personal property, which shall then be
18 transferred to the spouse or domestic partner by the personal representative:

19 1. Wearing apparel and jewelry held for personal use by the decedent or the
20 surviving spouse or surviving domestic partner;

21 (b) The selection in par. (a) may not include items specifically bequeathed
22 except that the surviving spouse or surviving domestic partner may in every case
23 select the normal household furniture, furnishings, and appliances necessary to
24 maintain the home. For this purpose antiques, family heirlooms, and collections that

1 are specifically bequeathed are not classifiable as normal household furniture or
2 furnishings.

3 **SECTION 110.** 861.35 (title) of the statutes is amended to read:

4 **861.35 (title) Special allowance for support of spouse or domestic**
5 **partner and support and education of minor children.**

6 **SECTION 111.** 861.35 (1m), (2), (3) (a) and (4) of the statutes are amended to
7 read:

8 861.35 (1m) If the decedent is survived by a spouse, domestic partner, or by
9 minor children, the court may order an allowance for the support and education of
10 each minor child until he or she reaches a specified age, not to exceed 18, and for the
11 support of the spouse or domestic partner. This allowance may be made whether the
12 estate is testate or intestate. If the decedent is not survived by a spouse or domestic
13 partner, the court also may allot directly to the minor children household furniture,
14 furnishings, and appliances. The court may not order an allowance under this
15 section if any of the following applies:

16 (a) The decedent has amply provided for each minor child and for the spouse
17 or domestic partner by the transfer of probate or nonprobate assets, or support and
18 education have been provided for by any other means.

19 (b) In the case of minor children, the surviving spouse or surviving domestic
20 partner is legally responsible for support and education and has ample means to
21 provide them in addition to his or her own support.

22 (c) In the case of the surviving spouse or surviving domestic partner, he or she
23 has ample means to provide for his or her support.

24 (2) The court may set aside property to provide an allowance and may appoint
25 a trustee to administer the property, subject to the continuing jurisdiction of the

1 court. If a child dies or reaches the age of 18, or if at any time the property held by
2 the trustee is no longer required for the support of the spouse or domestic partner or
3 the support and education of the minor child, any remaining property is to be
4 distributed by the trustee as the court orders in accordance with the terms of the
5 decedent's will or to the heirs of the decedent in intestacy or to satisfy unpaid claims
6 of the decedent's estate.

7 (3) (a) The effect on claims under s. 859.25. The court shall balance the needs
8 of the spouse, domestic partner, or minor children against the nature of the creditors'
9 claims in setting the amount allowed under this section.

10 (4) The court may order that the allowance to the surviving spouse or surviving
11 domestic partner, not including any allowance for the support and education of minor
12 children, be applied in satisfaction of any of the following:

13 (a) Any entitlement of the surviving spouse or surviving domestic partner
14 under s. 853.12.

15 (b) Any right of the surviving spouse or surviving domestic partner to elect
16 under s. 861.02 (1).

17 **SECTION 112.** 861.41 of the statutes is amended to read:

18 **861.41 Exemption of property to be assigned to surviving spouse or**
19 **surviving domestic partner.** (1) After the amount of claims against the estate
20 has been ascertained, the surviving spouse or surviving domestic partner may
21 petition the court to set aside as exempt from the claims of creditors under s. 859.25
22 (1) (h) an amount of property reasonably necessary for the support of the spouse or
23 domestic partner, not to exceed \$10,000 in value, if it appears that the assets are
24 insufficient to pay all claims and allowances and still leave the surviving spouse or

1 surviving domestic partner such an amount of property in addition to selection and
2 allowances.

3 (2) The court shall grant the petition if it determines that an assignment ahead
4 of creditors is reasonably necessary for the support of the spouse or domestic partner.

5 In determining the necessity and the amount of property to be assigned, the court
6 must take into consideration the availability of a home to the surviving spouse or
7 surviving domestic partner and all other assets and resources available for support.

8 **SECTION 113.** 867.01 (1) (b) and (3) (f) of the statutes are amended to read:

9 867.01 (1) (b) Whenever the estate, less the amount of the debts for which any
10 property in the estate is security, does not exceed \$50,000 in value and the decedent
11 is survived by a spouse or domestic partner, or one or more minor children or both.

12 (3) (f) *Order.* If the court is satisfied that the estate may be settled under this
13 section, after 30 days have elapsed since notice to the department of health services
14 under par. (d), if that notice is required, the court shall assign the property to the
15 persons entitled to it. If the estate may be settled under sub. (1) (b), any property not
16 otherwise assigned shall be assigned to the surviving spouse or surviving domestic
17 partner, or minor children or both as an allowance under s. 861.31. The court shall
18 order any person indebted to or holding money or other property of the decedent to
19 pay the indebtedness or deliver the property to the persons found to be entitled to
20 receive it. The court shall order the transfer of interests in real estate, stocks or
21 bonds registered in the name of the decedent, the title of a licensed motor vehicle, or
22 any other form of property. If the decedent immediately prior to death had an estate
23 for life or an interest as a joint tenant in any property in regard to which a certificate
24 of termination in accordance with s. 867.04 has not been issued, the order shall set
25 forth the termination of that life estate or the right of survivorship of any joint

1 tenant. Every tract of real property in which an interest is assigned or terminated
2 or which is security for a debt in which an interest is assigned or terminated shall
3 be specifically described.

4 **SECTION 114.** 895.04 (2) and (6) of the statutes are amended to read:

5 895.04 (2) If the deceased leaves surviving a spouse or state-registered
6 domestic partner under s. 770.05, and minor children under 18 years of age with
7 whose support the deceased was legally charged, the court before whom the action
8 is pending, or if no action is pending, any court of record, in recognition of the duty
9 and responsibility of a parent to support minor children, shall determine the amount,
10 if any, to be set aside for the protection of such children after considering the age of
11 such children, the amount involved, the capacity and integrity of the surviving
12 spouse or surviving domestic partner, and any other facts or information it may have
13 or receive, and such amount may be impressed by creation of an appropriate lien in
14 favor of such children or otherwise protected as circumstances may warrant, but
15 such amount shall not be in excess of 50% of the net amount received after deduction
16 of costs of collection. If there are no such surviving minor children, the amount
17 recovered shall belong and be paid to the spouse or domestic partner of the deceased;
18 if no spouse or domestic partner survives, to the deceased's lineal heirs as determined
19 by s. 852.01; if no lineal heirs survive, to the deceased's brothers and sisters. If any
20 such relative dies before judgment in the action, the relative next in order shall be
21 entitled to recover for the wrongful death. A surviving nonresident alien spouse or
22 a nonresident alien domestic partner state-registered under s. 770.05 and minor
23 children shall be entitled to the benefits of this section. In cases subject to s. 102.29
24 this subsection shall apply only to the surviving spouse's or surviving domestic
25 partner's interest in the amount recovered. If the amount allocated to any child

1 under this subsection is less than \$10,000, s. 807.10 may be applied. Every
2 settlement in wrongful death cases in which the deceased leaves minor children
3 under 18 years of age shall be void unless approved by a court of record authorized
4 to act hereunder.

5 (6) Where the wrongful death of a person creates a cause of action in favor of
6 the decedent's estate and also a cause of action in favor of a spouse, state-registered
7 domestic partner under s. 770.05, or relatives as provided in this section, such
8 spouse, domestic partner, or relatives may waive and satisfy the estate's cause of
9 action in connection with or as part of a settlement and discharge of the cause of
10 action of the spouse, domestic partner, or relatives.

11 **SECTION 115.** 905.05 (title) of the statutes is amended to read:

12 **905.05 (title) Husband-wife and domestic partner privilege.**

13 **SECTION 116.** 905.05 (1), (2) and (3) (a), (b), (c) and (d) of the statutes are
14 amended to read:

15 905.05 (1) GENERAL RULE OF PRIVILEGE. A person has a privilege to prevent the
16 person's spouse or former spouse or domestic partner or former domestic partner
17 from testifying against the person as to any private communication by one to the
18 other made during their marriage or domestic partnership. As used in this section,
19 "domestic partner" means a state-registered domestic partner under s. 770.05.

20 (2) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the person
21 or by the spouse or domestic partner on the person's behalf. The authority of the
22 spouse or domestic partner to do so is presumed in the absence of evidence to the
23 contrary.

24 (3) (a) If both spouses or former spouses or domestic partners or former
25 domestic partners are parties to the action.

1 (b) In proceedings in which one spouse or former spouse or domestic partner
2 or former domestic partner is charged with a crime against the person or property
3 of the other or of a child of either, or with a crime against the person or property of
4 a 3rd person committed in the course of committing a crime against the other.

5 (c) In proceedings in which a spouse or former spouse or domestic partner or
6 former domestic partner is charged with a crime of pandering or prostitution.

7 (d) If one spouse or former spouse or domestic partner or former domestic
8 partner has acted as the agent of the other and the private communication relates
9 to matters within the scope of the agency.

10 **SECTION 117.** 949.01 (2) of the statutes is amended to read:

11 949.01 (2) "Dependent" means any spouse, state-registered domestic partner
12 under s. 770.05, parent, grandparent, stepparent, child, stepchild, adopted child,
13 grandchild, brother, sister, half brother, half sister, or parent of spouse or of
14 state-registered domestic partner under s. 770.05, of a deceased victim who was
15 wholly or partially dependent upon the victim's income at the time of the victim's
16 death and includes any child of the victim born after the victim's death.

17 **SECTION 118.** 949.06 (1m) (a) of the statutes is amended to read:

18 949.06 (1m) (a) In this subsection, "family member" means any spouse,
19 state-registered domestic partner under s. 770.05, parent, grandparent, stepparent,
20 child, stepchild, adopted child, grandchild, foster child, treatment foster child,
21 brother, sister, half brother, half sister, aunt, uncle, nephew, niece, or parent or
22 sibling of spouse.

23 **SECTION 119.** 971.17 (4m) (a) 2. of the statutes is amended to read:

24 971.17 (4m) (a) 2. "Member of the family" means spouse, state-registered
25 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

1 **SECTION 120.** 971.17 (6m) (a) 2. of the statutes is amended to read:

2 971.17 **(6m)** (a) 2. "Member of the family" means spouse, state-registered
3 domestic partner under s. 770.05, child, sibling, parent or legal guardian.

4 **SECTION 121.** 980.11 (1) (b) of the statutes is amended to read:

5 980.11 **(1)** (b) "Member of the family" means spouse, state-registered domestic
6 partner under s. 770.05, child, sibling, parent or legal guardian.

7 **SECTION 122. Initial applicability.**

8 (1) **REAL ESTATE TRANSFER FEE.** The treatment of sections 77.25 (8n) of the
9 statutes first applies to conveyances recorded on the effective date of this subsection.

10 **(END)**